

1 UNITED STATES BANKRUPTCY COURT

2 EASTERN DISTRICT OF NEW YORK

3
4 JACOB FETMAN)

5)
6 Debtor,)

CASE NO. 15-43716-nhl

7
8 FETMAN

CASE NO. 16-01038-nhl

9 versus

10 MUSSO ET AL

11 AISH HATORAH NEW YORK INC

CASE NO. 16-01064-nhl

12 versus

13 FETMAN ET AL

14
15 TRANSCRIPT OF PROCEEDINGS
16 BEFORE THE HONORABLE JUSTICE NANCY HERSHEY LORD
17 THURSDAY, OCTOBER 6, 2016 12:09 P.M.
271-C CADMAN PLAZA EAST
BROOKLYN, NEW YORK 11201-1800

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I N D E X

OCTOBER 6, 2016

Petitioner's

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
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Name

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Defendant's

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
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A P P E A R A N C E S

OCTOBER 6, 2016

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ROBERT MUSSO, Trustee
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1 Hearing re:

2

3 Matter: Adj (Carried) [33] Motion to Authorize/Direct Bidding
4 Procedures for the Sale of Real Property Filed by Bruce Weiner
5 on behalf of Robert J. Musso.

6

7 Matter: Adj Pre-Trial RE: [1] Complaint by Tamar Fetman
8 against Robert J Musso, Moshe Fetman, Yafa Fetman, 4305 10th
9 Avenue Corp., Fee Amount \$450. Nature(s) of Suit: (21
10 (Validity, priority or extent of lien or other interest in
11 property)), (91 (Declaratory judgment)).

12

13 Matter: Adj Pre-Trial RE: [1] Complaint by Aish Hatorah New
14 York, Inc. against Jacob Fetman, Fee Amount \$350. Nature(s) of
15 Suit: (67 (Dischargeability - 523(a)(4), fraud as fiduciary,
16 embezzlement, larceny)), (62 (Dischargeability - 523(a)(2),
17 false pretenses, False representation, actual fraud)).

18

19 Matter: [6] Motion For Summary Judgment and to Dismiss
20 Counterclaim Filed by Robert L. Rimberg on behalf of Aish
21 Hatorah New York, Inc.

22

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1 Hearing re: (continued)

2

3 Matter: Adj Pre-Trial RE: [1] Complaint by Aish Hatorah New
4 York, Inc. against Robert Musso, Jacob Fetman, Merkaz, The
5 Center, Inc., Ober Kaler. Fee Amount \$350. Nature(s) of Suit:
6 (21 (Validity, priority or extent of lien or other interest in
7 property)).

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P R O C E E D I N G S

FEMALE CLERK: Matter Numbers 41 through 45 in the case of Jacob Fetman and the Adversary Proceeding Fetman v Musso and Aish v Fetman.

The Aish matters are being adjourned, Judge. They called me.

THE COURT: They are?

FEMALE CLERK: Yes.

THE COURT: I'm sorry. They really are?

FEMALE CLERK: Right. The Aish. Right.

THE COURT: When did they call? I prepared --

FEMALE CLERK: No. I got a -- It was late yesterday and then this morning they finally settled on the date and time.

I'm sorry.

THE COURT: Okay. Good.

MR. ABEL: Would you like me to go get them? I'm sure they're outside, Your Honor. Uh, here they are.

MR. MUSSO: Mr. Weiner is coming in in the Courtroom momentarily, Judge.

THE COURT: Appearances please.

MR. WEINER: Bruce Weiner, Rosenberg, Musso and Weiner, Attorneys for Robert Musso, Trustee.

MR. MUSSO: Robert Musso, Trustee.

1 MR. ABEL: Ira Abel, I'm of Counsel to the Law Office
2 of David Carlebach for the Debtor.

3 THE COURT: Okay. So I understand that --

4 FEMALE CLERK: 43 to 45.

5 THE COURT: Aish has sought an adjournment and I guess
6 gotten an adjournment on the, on, from 43 to 45 which is too
7 bad because I prepared for the motion for summary judgement but
8 I guess that's how it goes. Appearances --

9 MR. WEINER: Preparation is never wasted, Your Honor.

10 THE COURT: That's right. Except you have to do it
11 again at our age.

12 MR. ABEL: I understand perfectly well, Your Honor.

13 MR. WEINER: As do I.

14 THE COURT: Mr. Weiner.

15 MR. WEINER: So that leaves two matters that the
16 Trustee is involved in.

17 One is the adversary proceeding with Mrs. Fetman in
18 which we've, we have reached an agreement in principal with her
19 lawyer.

20 THE COURT: Mr. Citron?

21 MR. WEINER: Mr. Citron. I sent him a stipulation.
22 He's got back to me with some comments.

23 I think -- It doesn't seem like it's anything that
24 will, that, that, that cant be worked out.

25 So I'm hoping to have that --

1 THE COURT: So it's going to be the subject of the
2 9019?

3 MR. WEINER: It will, it will have -- There will have
4 to be a 9019.

5 THE COURT: Right. Okay. All right.

6 MR. WEINER: He, you know, he, he filed, he docketed a
7 letter this morning, you know, requesting an adjournment and,
8 you know, telling the Court that we were negotiating a
9 stipulation and I have no problem with anything that, that he
10 said in the letter.

11 THE COURT: Okay. Let me look.

12 Okay. So that leaves the first matter --

13 MR. WEINER: The first matter --

14 THE COURT: -- which has been, it's been adjourned
15 from time-to-time.

16 MR. WEINER: Adjourned from time-to-time as the
17 Trustee's motion to authorize bidding procedures for sale of
18 real property and that was opposed by the Debtor's parents
19 claiming that they are the, at least the beneficial owners of
20 this property through a constructive trust.

21 We -- Both sides briefed that issue and we're waiting
22 for a decision.

23 THE COURT: Okay. So that is -- All right. Let me
24 just make sure that --

25 MR. WEINER: That --

1 THE COURT: Just a second.

2 MR. WEINER: The -- Just go back to, to the other
3 matter for just a second.

4 Because the Court, the Court had entered, you know, a,
5 a pre-trial Order and discovery had to be completed by
6 September 12th and the pre-trial memo by --

7 THE COURT: On, on what?

8 MR. WEINER: -- on November 3.

9 This is the adversary proceeding.

10 THE COURT: Right.

11 MR. WEINER: So we, we're, we -- Since we resolved
12 the matter around, just around, you know, September 12th, at
13 least in, in principal, we didn't, you know, go -- We decided
14 not to go forward with discovery.

15 There was going to be a, a deposition. Mrs. Fetman
16 was willing to appear but we --

17 THE COURT: Okay. So in other words if, if --

18 MR. WEINER: -- we both decided not to waste
19 resources.

20 THE COURT: -- if the, if the settlement falls through
21 though you'll have to amend those dates, right?

22 MR. WEINER: If, if the settlement falls through, I'll
23 have to amend those dates.

24 I'm, I'm reasonably confident it won't.

25 So I just, I just wanted to review that the Court

1 shouldn't look for a pre-trial memo on November 3rd.

2 THE COURT: Right.

3 Just bear with me while I figure this out.

4 Okay. So you need another -- When is the date
5 that --

6 FEMALE CLERK: November 8th at 2:30.

7 MR. WEINER: Is it now 2:30 because --

8 MR. ABEL: It was on for 10:30, Your Honor, but 2:30
9 is fine if that's where you want to move it.

10 MR. WEINER: Well just that I already, I already had
11 scheduled a motion in this case for November 8 at 10:30.
12 That's the Trustee's motion to hold the Debtor in contempt for
13 not complying with your September 8 Order in which you stated
14 that in order to avoid contempt, he had to make certain
15 payments to the Trustee.

16 Those payments have not been made so we filed a
17 motion --

18 THE COURT: Great. Well we --

19 MR. WEINER: We have filed a motion which I'm not
20 arguing the motion.

21 THE COURT: All right. And 2:30?

22 FEMALE CLERK: Right. When I spoke with Counsel, he
23 said all parties were in agreement to have the matters heard at
24 2:30 because I told them the nature of the pleadings, that
25 10:30 was not conducive because of our calendar.

1 THE COURT: Okay.

2 MR. WEINER: That, that's, that's fine.

3 THE COURT: Let's adjourn on the record --

4 MR. WEINER: Right.

5 THE COURT: Okay. And just can we do it, can we do it
6 ourselves or he needs a letter?

7 FEMALE CLERK: Umm, umm, I believe he was going to
8 file one but I, I --

9 THE COURT: Who was going to file one?

10 FEMALE CLERK: Counsel --

11 THE COURT: Mr. Weiner?

12 FEMALE CLERK: In the Aish matters.

13 THE COURT: No. No. No.

14 FEMALE CLERK: Oh, on the --

15 THE COURT: Mr. Weiner has a different matter on at
16 10:30.

17 FEMALE CLERK: Okay. Right. I'll take care of it or
18 if he wants to do it.

19 THE COURT: All right. I'm going to allow an
20 adjournment of your matter to 2:30. Is that okay?

21 MR. WEINER: That, that's fine. I have no problem.

22 I, I told all the parties yesterday.

23 I have no, no problem.

24 I just wanted to have everything heard at the same
25 time.

1 THE COURT: Okay. So it needs to -- I don't want to
2 make you write a letter --

3 We're going to adjourn it --

4 FEMALE CLERK: I'll take care of it.

5 THE COURT: -- and, and we'll, everybody will --

6 FEMALE CLERK: I'll send it.

7 THE COURT: -- see a notice. Okay.

8 MR. ABEL: And that's as -- We also for the Debtor
9 want everything at the same time.

10 THE COURT: Okay. Good. So --

11 MR. MUSSO: Just to be clear, theres a second motion
12 the Trustee made returnable that date at 10:30.

13 That's my motion to extend time to object to discharge
14 because --

15 THE COURT: That motion needs to be adjourned to 2:30
16 as well.

17 MR. MUSSO: Fine. Okay.

18 THE COURT: So Ordered the record.

19 Okay. So -- Okay. So everything is, everything we
20 have on today is going over to --

21 FEMALE CLERK: November 8th.

22 THE COURT: -- November 8th --

23 FEMALE CLERK: 2:30.

24 THE COURT: -- at 2:30.

25 Okay. Anything else?

1 MR. WEINER: That's, that's it.

2 THE COURT: Okay. Thanks.

3 MR. ABEL: That's it, Your Honor.

4 THE COURT: Thank you.

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6 (Proceedings concluded at 12:19 P.M.)

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C E R T I F I C A T I O N

Jodi Kanestrin

JODI KANESTRIN

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Date: October 18, 2016

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